

Title 14

PUBLIC IMPROVEMENTS

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Chapter 14.10

PUBLIC IMPROVEMENT PROCEDURE

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14.10.010 Initiation of proceedings and report from the city engineer.

Whenever the city council shall deem it necessary, upon its own motion or upon the petition of the owners of one-half of the property to benefit specially from the improvement, to make any street, sewer, sidewalk, drain or other public improvement to be paid for in whole or in part by special assessment according to benefits, then the city council shall by motion direct an appropriate city employee or agent to make a survey and written report for such project and file the same with the city auditor. Unless the city council shall direct otherwise, such report shall contain the following matters:

A. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

B. Plans, specifications and estimates of the work to be done; provided however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the report

may adopt the plans, specifications and estimates of such agency.

C. An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto.

D. An estimate of the unit cost of the improvement to the specially benefited properties.

E. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.

F. The description and assessed value of each lot, parcel of land or portion thereof to be specially benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.

G. A statement of outstanding assessments against property to be assessed. [Ord. 425 § 1, 1981.]

14.10.020 Council's action on report.

After the report shall have been filed with the city recorder, the council may thereafter by motion approve the report, modify the report and approve it as modified, require additional or different information for such improvement, or it may abandon the improvement. [Ord. 425 § 2, 1981.]

14.10.030 Resolution and notice of hearing.

After the city council shall have received the report as submitted or modified, the council shall by resolution declare its intention to make such improvement, provide the manner and method of carrying out the improvement and shall direct the city recorder to give notice of such improvement as follows:

A. By two publications one week apart in a newspaper of general circulation in the city of Philomath, and such notice shall state:

1. That the city has by resolution declared its intention to make such improvement.

2. The general description of the area in which such improvements shall be made.

3. The date on which the city council shall hold the public hearing, which date shall not be earlier than 10 days following the first publication of notice.

4. The place that the public hearing will be held.

5. That such public hearings, objections and remonstrance to the improvement will be heard by the city council.

6. That action on the proposed public improvement, except a sidewalk or an improvement unanimously declared by the council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the property to be specially assessed therefor.

7. The total cost of the improvement.

8. That a written report on the improvement containing a description of the owners to be specially benefited by the improvement, and names of the owners of such property, and the estimate of the unit cost of the improvement to the property is on file in the office of the city recorder and is subject to public examination.

B. By mailing copies of the following notice by registered or certified mail to the owners of the property to be assessed for the costs of such improvement. For the purposes of this section, "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract or according to a verified writing by the record holder of legal title to the land filed with the city recorder, the said purchaser shall be deemed the owner.

1. That a written report on the improvement is on file in the office of the city recorder and is subject to public examination.

2. That the city council will hold a public hearing on the proposed improvement and the date and place of the public hearing.

3. That the public hearing, objections and remonstrances to such improvement shall be heard by the city council.

4. That action on any proposed public improvement, except a sidewalk or an improvement unanimously declared by the council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the property to be specially assessed therefor.

5. A description of the property to be specially benefited by the improvement, the owners of such property, and the estimate of the unit cost of the improvement to the property to be specially benefited, and the total cost of the improvement to

be paid for by special assessments to benefited properties. [Ord. 425 § 3, 1981.]

14.10.040 Manner of doing work.

The city council may provide in the improvement resolution that the construction work may be done in whole or in part by the city of Philomath, by a contract, or by any other governmental agency, or by any combination thereof. [Ord. 425 § 4, 1981.]

14.10.050 Hearing.

At the time of the public hearing on the proposed improvement, action on any proposed public improvement, except a sidewalk or an improvement unanimously declared by the council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the property to be specially assessed therefor. For the purposes of this section, "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract or according to a verified writing by the record holder of legal title to the land filed with the city recorder, the said purchaser shall be deemed the owner. If the required number of owners do not remonstrate against the public improvement, the city council may, by motion at the time of said hearing or within 60 days thereafter, order said improvement to be carried out in accordance with the resolution or the city council may on its own motion abandon the improvement. [Ord. 425 § 5, 1981.]

14.10.060 Call for bids.

The city council may, in its discretion, direct the city recorder to advertise for bids for construction of all, or any part of, the improvement project on the basis of the council-approved report and before the passage of the resolution, or after the passage of the resolution and before the public hearing on the proposed improvement, or at any time after said public hearing; provided, however, that no contract shall be let until after the public hearing has been held to hear remonstrances and oral objections to the proposed improvement. In the event that any part of the work of the improvement is to be done under contract bids, then the council shall follow its bid solicitation process as specified in the city's

public contracting procedures, and the contracts may be let to the responsible bidder whose bid is in the best interests of the city as determined in the sole discretion of the city council; provided, that the council shall have the right to reject any or all bids when they are deemed unreasonable or unsatisfactory in the city council's discretion. The city shall provide for the bonding of all contractors for the faithful performance of any contract let under its authority, and the provisions thereof in case of default shall be enforced by action in the name of the city of Philomath.

If the city council finds, upon opening bids for the work of such improvement, that the bid in the best interest of the city is substantially in excess of the estimate, it may, in its discretion, provide for holding a special hearing of objections to the proceeding with the improvement on the basis of such bid; and it may direct the city recorder to publish one notice thereof in a newspaper of general circulation in the city of Philomath. [Ord. 738 § 4, 2006; Ord. 425 § 6, 1981.]

14.10.070 Assessment ordinance.

If the city council determines that the local improvement shall be made, when the estimated cost thereof is ascertained on the basis of the contract award of city departmental cost, or after the work is done and the cost thereof has been actually determined, the city council shall determine whether the property benefited shall bear all or a portion of the cost. The city recorder or other person designated by the council shall prepare the proposed assessment to the respective lots within the assessment district and file it in the appropriate city office. Notice of such proposed assessment shall be mailed by registered or certified mail to the owner of each lot proposed to be assessed, which notice shall state as follows:

- A. The amount of assessment proposed on that property.
- B. The date by which time such objections shall be filed with the city recorder.
- C. That any such objection shall be in writing and shall state the grounds of the objection.
- D. The time and place that the city council shall consider any such objections.

The city council shall consider such objections and may adopt, correct, modify or revise the proposed assessments, and shall determine the amount

of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments. [Ord. 425 § 7, 1981.]

14.10.080 Method of assessment and alternative methods of filing.

The city council, in adopting a method of assessment of the costs of the improvement, may:

- A. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.
- B. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.
- C. Authorize payment by the city of all, or any part of, the cost of any such improvement when, in the opinion of the city council, the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of improvement.

Nothing contained in this chapter shall preclude the council from using any other available means of financing improvements, including federal or state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the city council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement. [Ord. 425 § 8, 1981.]

14.10.090 Remedies.

Subject to the curative provisions of PMC 14.10.160 and the rights of the city to reassess as provided in PMC 14.10.170, proceedings for writs of review and suits in equity may be filed no later than 60 days after the passage by the city council of the ordinance spreading the assessment; providing that the property owner shall have filed a written objection to the proposed assessment as provided in PMC 14.10.070. A property owner who has filed a written objection with the city recorder, as required by PMC 14.10.070, shall have the right to apply for a writ of review based on the grounds that the council, in the exercise of judicial functions, has exercised such functions erroneously or arbi-

trarily, or has exceeded its jurisdiction to the injury of some substantial right of such owner, if the facts supporting said ground have been specifically set forth in the written objection as required in PMC 14.10.070. A property owner who has filed a written objection with the city recorder, as required by PMC 14.10.070, may commence a suit for equitable relief based on a total lack of jurisdiction on the part of the city; and if notice of the improvement shall not have been sent to the owner, and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the city recorder within 30 days after receiving notice of knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption or so as to affect the running of any statute of limitation or equitable defense, including laches. Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the city council to remedy or cure the alleged errors or defects. [Ord. 425 § 9, 1981.]

14.10.100 Notice of assessment.

A. Within 10 days after the ordinance levying assessment has been passed, the city recorder shall send by registered or certified mail a notice of assessment to the owner of the assessed property. Such notice shall contain the following:

1. The date of the assessment ordinance.
2. A copy of the assessment ordinance.
3. That upon the failure of the owner of the property assessed to make application to pay the assessment in installments within 10 days from the date of the first publication or notice or upon the failure of the owner to pay the assessment in full within 30 days from the date of the assessment ordinance, then interest will commence to run on the assessment and that the property assessed will be subject to foreclosure.
4. The description of the property assessed and the name of the owner of the property.
5. The amount of each assessment.

B. The city recorder shall also publish notice of such assessment twice in a newspaper of general circulation in the city of Philomath, the first publication of which shall be made not later than 10 days

after the date of the assessment ordinance. This notice shall contain the following information:

1. The date and number of the assessment ordinance.
2. The names and addresses of the owners of the property assessed.
3. That the engineering report and the ordinance spreading assessments containing the description of the property assessed and the amount of each assessment is on file at the office of the city recorder and is available for public inspection.
4. That upon the failure of the owner of the property assessed to make application to pay the assessment in installments within 10 days from the date of the first publication or notice or upon the failure of the owner to pay the assessment in full within 30 days from the date of the assessment ordinance, then interest will commence to run on the assessment and that the property assessed will be subject to foreclosure.
5. The total amount of the assessment cost for the project. [Ord. 425 § 10, 1981.]

14.10.110 Lien records and foreclosure proceedings.

After passage of the assessment ordinance by the city council, the city recorder shall enter into the docket of city liens a statement of the amounts assessed upon each particular lot, parcel of land or portions thereof which have been assessed for such improvements. All assessment liens of the city of Philomath shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state of Oregon permit. Interest shall be charged at a rate to be set by the city council in the ordinance spreading the assessment but not to exceed the rate of 14 percent per annum until paid on all amounts not paid within 30 days from the date of the assessment ordinance; and after expiration of 30 days from the date of such assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state of Oregon; provided however, that the city may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state of Oregon to

redeem such property. [Ord. 445 § 1, 1981; Ord. 425 § 11, 1981.]

14.10.120 Errors in assessment calculations.

Claimed errors in the calculation of assessments shall be called to the attention of the city recorder who shall determine whether there has been an error in fact. If the city recorder shall find that there has been an error in fact, he shall recommend to the council an amendment to the assessment ordinance to correct such error; and upon enactment of such amendment, the city recorder shall make the necessary correction in the docket of city liens and send a corrected notice of assessment by registered or certified mail. [Ord. 425 § 12, 1981.]

14.10.130 Deficit assessment.

In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the council may by motion declare such deficit and prepare a proposed deficit assessment. The procedures for setting the deficit assessment shall be those procedures set forth in this chapter as provide for the passage of the ordinance spreading the assessments, the notice of the ordinance spreading the assessments, the docketing in the lien dockets of the ordinance spreading the assessments and all other related procedures. [Ord. 425 § 13, 1981.]

14.10.140 Rebates.

If, upon completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the council must ascertain and declare the same by ordinance; and, when so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the repayment of such rebate credit or the portion thereof which exceeds the amount unpaid on the original assessment. [Ord. 425 § 14, 1981.]

14.10.150 Abandonment of proceedings.

The city council shall have full power and authority to abandon and rescind proceedings for

improvements made under this chapter at any time prior to the final completion of such improvements; and if liens have been assessed upon any property under such procedure, they shall be canceled; and any payments made on such assessments shall be refunded to the person paying the same, his assigns or legal representatives. [Ord. 425 § 15, 1981.]

14.10.160 Curative provisions.

No improvement assessment shall be rendered invalid by reason of a failure of the report to contain all of the information required by PMC 14.10.010; or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket, or notices required to be published and mailed; nor by the failure to list the name of, or mail notice to, the owner of any property as required by this chapter; or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the city council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings. [Ord. 425 § 16, 1981.]

14.10.170 Reassessment.

Whenever any assessment, deficit, or reassessment for any improvement which has been made by the city has been, or shall be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this state, or any federal court having jurisdiction thereof, or when the council shall be in doubt as to the validity of such assessment, deficit assessment, or reassessment, or any part thereof, then the council may make a reassessment in the manner provided by the laws of the state of Oregon. [Ord. 425 § 17, 1981.]

Chapter 14.15

SYSTEM DEVELOPMENT CHARGES

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- 14.15.050 Methodology.
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- 14.15.080 Improvement plan.
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- 14.15.110 Exemptions.
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- 14.15.130 Notice.
- 14.15.140 Segregation and use of revenue.
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- 14.15.180 Construction.
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14.15.010 Purpose.

The purpose of the system development charge is to impose a portion of the cost of capital improvements for water, wastewater drainage, streets, flood control, and parks upon those developments that create the need for or increase the demands on capital improvements. [Ord. 678 § 1, 1999.]

14.15.020 Scope.

The system development charge imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. [Ord. 678 § 2, 1999.]

14.15.030 Definitions.

For purposes of this chapter, the following mean:

“Capital improvements” means facilities or assets used for:

1. Water supply, treatment and distribution;
2. Wastewater collection, transmission, treatment and disposal;

3. Drainage and flood control;
4. Transportation; or
5. Parks and recreation.

“Development” means conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), and creating or terminating a right of access.

“Improvement fee” means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to PMC 14.15.040.

“Land area” means the area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

“Owner” means the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

“Parcel of land” means a lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

“Permittee” means the person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right-of-way access permit is issued.

“Qualified public improvements” means a capital improvement that is:

1. Required as a condition of residential development approval;
2. Identified in the plan adopted pursuant to PMC 14.15.080; and either
3. Not located on or contiguous to a parcel of land that is the subject of the development approval; or
4. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

5. For purposes of this definition, “contiguous” means in a public way which abuts the parcel.

“Reimbursement fee” means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to PMC 14.15.040.

“System development charge” means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. “System development charge” includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. “System development charge” does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. [Ord. 678 § 3, 1999.]

14.15.040 System development charge established.

A. System development charges shall be established and may be revised by resolution of the council. The resolution shall set the amount of the charge, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.

B. Unless otherwise exempted by the provisions of this chapter or other local or state law, a system development charge is hereby imposed upon all development within the city, upon the act of making a connection to the city water or sewer system within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the sewer facilities, storm sewers, or water facilities of the city. [Ord. 678 § 4, 1999.]

14.15.050 Methodology.

A. The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principals employed to finance publicly owned

capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

B. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

C. The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in an ordinance adopted by the council. [Ord. 678 § 5, 1999.]

14.15.060 Authorized expenditures.

A. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

B. Improvement fees shall be spent only on capacity-increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands by current or projected development.

C. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to PMC 14.15.080.

D. Notwithstanding subsections (A) and (B) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures. [Ord. 678 § 6, 1999.]

14.15.070 Expenditure restrictions.

A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

B. System development charges shall not be expended for costs of the operation or routine

maintenance of capital improvements. [Ord. 678 § 7, 1999.]

14.15.080 Improvement plan.

The council shall adopt a plan that:

A. Lists the capital improvements that may be funded with improvement fee revenues; and

B. Lists the estimated cost and time of construction of each improvement.

In adopting this plan, the council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section. [Ord. 678 § 8, 1999.]

14.15.090 Collection of charge.

A. The system development charge is payable upon issuance of:

1. A building permit;

2. A development permit;

3. A development permit for development not requiring the issuance of a building permit;

4. A permit or approval to connect to the water system;

5. A permit or approval to connect to the sewer system; or

6. A right-of-way access permit.

B. If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

C. If development is commenced or connection is made to the water or sewer systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

D. The city manager or the city manager's designee shall collect the applicable system development charge from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.

E. The city manager or the city manager's designee shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to PMC 14.15.100, or unless an exemption is granted pursuant to PMC 14.15.110. [Ord. 678 § 9, 1999.]

14.15.100 Installment payment.

A. When a system development charge of \$25.00 or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment in 20 semi-annual installments, to include interest on the unpaid balance, in accordance with ORS 223.208.

B. The city finance director shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

D. The city manager or city manager's designee shall report to the city finance director the amount of the system development charge, the dates on which the payments are due, the name of the owner, and the description of the parcel.

E. The city finance director shall docket the lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the council. The lien shall be enforceable in the manner provided in ORS Chapter 223. [Ord. 678 § 10, 1999.]

14.15.110 Exemptions.

A. Structures and uses established and existing on or before the effective date of the ordinance codified in this chapter are exempt from a system development charge, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the water or sewer system.

B. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

C. An alteration, addition, replacement or change in use that does not increase the parcel's or

structure's use of the public improvement facility are exempt from all portions of the system development charge.

D. A project financed by city revenues is exempt from all portions of the system development charge. [Ord. 678 § 11, 1999.]

14.15.120 Credits.

A. When development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. However, under no circumstances shall a credit be allowed where the property involved has never paid a systems development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given unless provided for by another subsection of this section.

B. A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.

C. If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the city.

D. When the construction of a qualified public improvement located in whole or in part or contig-

uous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.

E. Notwithstanding subsections (C) and (D) of this section, when establishing a methodology for a system development charge, the city may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the council finds reasonable.

F. Credits shall not be transferable from one development to another.

G. Credits shall not be transferable from one type of system development charge to another.

H. Credits shall be used within 10 years from the date the credit is given. [Ord. 679 § 1, 1999; Ord. 678 § 12, 1999.]

14.15.130 Notice.

A. The city shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least 45 days prior to the first hearing to adopt or amend a system development charge. The methodology supporting the adoption or amendment shall be available at least 30 days prior to the first hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city.

B. The city may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the city must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list. [Ord. 678 § 13, 1999.]

14.15.140 Segregation and use of revenue.

A. All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in PMC 14.15.060.

B. The finance director shall provide the city council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account. [Ord. 678 § 14, 1999.]

14.15.150 Appeal procedure.

A. A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city recorder describing with particularity the decision of the city manager and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

B. Appeals of any other decision required or permitted to be made by the city manager under this chapter must be filed within 10 days of the date of the decision.

C. After providing notice to the appellant, the council shall determine whether the city manager's decision or the expenditure is in accordance with this chapter and the provisions of ORS 223.297 through 223.314 and may affirm, modify, or overrule the decisions. If the council determines that there has been an improper expenditure of system development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the council shall be reviewed only as provided in ORS 34.010 through 34.100, and not otherwise.

D. A legal action challenging the methodology adopted by the council pursuant to PMC 14.15.050 shall not be filed later than 60 days after the adoption. A person shall contest the methodology used for calculating a system development charge only

as provided in ORS 34.010 through 34.100, and not otherwise. [Ord. 678 § 15, 1999.]

14.15.160 Prohibited connection.

No person may connect to the water or sewer systems of the city unless the appropriate system development charge has been paid or the lien or installment payment method has been applied for and approved. [Ord. 678 § 16, 1999.]

14.15.170 Penalty.

Violation of PMC 14.15.160 is punishable by a fine not to exceed \$750.00. [Ord. 678 § 17, 1999.]

14.15.180 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this chapter. [Ord. 678 § 18, 1999.]

14.15.190 Classification.

The city council determines that any fee, rates or charges imposed by this chapter are not a tax subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution. [Ord. 678 § 20, 1999.]

Chapter 14.20**ROAD MAINTENANCE FEE**

Sections:

- 14.20.010 Definitions.
- 14.20.020 Regulatory program.
- 14.20.030 Administrative policies.
- 14.20.040 Road maintenance user fee.
- 14.20.050 Enforcement.
- 14.20.060 General provisions

14.20.010 Definitions.

The following words and phrases, as used within this chapter, have the following definitions and meanings:

“Developed property” means a parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

“Gross square footage” means the calculated area of all structures located on a site, measured along the exterior walls of such structures, including but not limited to enclosed courtyards, stairwells, and square footage on each level of multistory structures, but not including fences and parking areas which are not enclosed within a building.

“ITE manual” means the Institute of Transportation Engineers Trip Generation Manual, Fifth Edition.

“Multifamily residential” means residential property consisting of two or more dwelling units. For purposes of this chapter, condominiums and individual mobile home units are also classified as multifamily residences.

“Nonresidential” means a use of property which is primarily not for personal, domestic accommodation.

“Single-family residential” means a residential structure which is occupied by one or more persons of which there shall be only one dwelling unit per lot and which provides complete, independent living facilities for one or more persons including, but not limited to, permanent provisions for living, sleeping, eating, cooking and sanitation. For purposes of this chapter, manufactured homes are considered single-family residential.

“Street” or “road” means a public road or right-of-way within the city which is under the jurisdiction or control of the city. For purposes of this chapter, county, state and federal roads are excluded.

“Truck” means a motor vehicle having six or more tires in contact with the pavement surface. [Ord. 721 § 1, 2003.]

14.20.020 Regulatory program.

A. There is hereby created a road maintenance regulatory program for the purpose of maintaining a safe, functioning city street system.

B. Revenues collected pursuant to this chapter shall be collected in the street fund and used exclusively to fund a street maintenance/regulatory program to provide for a safe, functioning street system. In the event that road maintenance fees collected are insufficient to properly regulate the maintenance of city streets, additional funding may be allocated by the city council from other nondedicated city funds. [Ord. 721 § 2, 2003.]

14.20.030 Administrative policies.

A. The use of the city’s streets and roads involves a complex mixture of interdependent uses between categories of residentially developed property and nonresidentially developed property. As a predominantly residential community with a limited commercial and industrial base, the city’s street and roads system exists to support the transportation needs of its residents. It therefore follows that the most reasonable apportionment is approximately 75 percent use attributable to residential development and approximately 25 percent use to nonresidential development. In keeping with this division, approximately 75 percent of the total revenues needed to be generated by the road maintenance program fee on an annualized basis shall come from residential developments and approximately 25 percent shall come from nonresidential developments.

B. The city’s public works director is authorized and directed to review the operation of this chapter and where appropriate recommend changes to the city council. Council action on such changes shall be by resolution. Such procedures if adopted by the council shall be given full force and effect and unless clearly inconsistent with this chapter shall apply uniformly throughout the city.

C. The initial road maintenance billing rates shall not be increased until after June 2005. During the second year of this program and every year thereafter, the public works committee shall annually review the road maintenance billing rates and advise the city council of changes, if any, that are deemed advisable.

D. The provisions of this chapter may be appealed by writ of review within 60 days of its effective date. The amount of a road maintenance billing rate may be appealed in accordance with the criteria and procedures specified in the resolution which implements this chapter. [Ord. 721 § 3, 2003.]

14.20.040 Road maintenance user fee.

A. A road maintenance fee is hereby established and shall be assessed to street users as defined herein by development category and classification. Billing shall be as a line item on the city's utility bill.

B. Undeveloped properties shall not be charged a road maintenance fee.

C. Each residential developed property within the city limits will be assigned to one of two billing categories: single-family dwelling unit or multi-family dwelling unit. The road maintenance fee for a single-family dwelling unit shall be greater than the corresponding fee for a multifamily dwelling unit. This difference in fee levels shall be proportionate to trip generation rates as established in the ITE manual.

D. Each nonresidential developed property within the city limits shall be assigned to a road maintenance billing category based on the following three factors associated with road usage:

1. Intensity of vehicle trips generated per 1,000 (gross) square feet of developed area, or equivalent. Statistical data from the ITE manual is to be used to establish levels of intensity.

2. Magnitude of development as measured by gross square feet of developed area, or equivalent.

3. Trucks per day serving the development.

E. The methodology for classification of the categories of residential and nonresidential developed property, the fair apportionment to each classification, and the amount of the road maintenance fee shall be initially established by city council res-

olution. Changes shall also be adopted by resolution. [Ord. 721 § 4, 2003.]

14.20.050 Enforcement.

A. In addition to other lawful enforcement procedures, the city may enforce the collection of charges required by this chapter by withholding delivery of water to any premises where road maintenance fees are delinquent or unpaid.

B. Notwithstanding any provision herein to the contrary, the city may institute any necessary legal proceedings to enforce the provisions of this chapter including, but not limited to, injunctive relief and collection of charges owing. The city's enforcement rights shall be cumulative. [Ord. 721 § 5, 2003.]

14.20.060 General provisions.

A. In the event any section, subsection, paragraph, sentence or phrase of this chapter or resolution adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of this chapter shall continue to be effective.

B. Nothing contained herein shall be construed as limiting the city's authority to levy special assessments in connection with public improvements pursuant to applicable law.

C. The fees and charges herein are not intended to be taxes, nor are they subject to the property tax limitations of Article XI, Section 11b, of the Oregon Constitution.

D. The city council has adopted Chapter 14.15 PMC requiring new development to pay system development charges. PMC 14.15.050(C) requires adoption of an SDC methodology by ordinance.

E. It has been determined that the existing street capital improvement plan and methodology for street systems development charges needs to be updated to reflect current and future needs of the city street system. The Philomath city council therefore adopts the "Capital Improvement Plan and Methodology for Street SDCs," attached to the ordinance codified in this section. [Ord. 722 §§ 1, 2, 2004; Ord. 721 § 6, 2003.]

Chapter 14.25**REIMBURSEMENT DISTRICTS**

Sections:

- 14.25.010 Purpose.
- 14.25.020 Definitions.
- 14.25.030 Application for a reimbursement district.
- 14.25.040 City planning official's report.
- 14.25.050 Amount to be reimbursed.
- 14.25.060 Public hearing.
- 14.25.070 Notice of public hearing.
- 14.25.080 City council action.
- 14.25.090 Notice of adoption of resolution.
- 14.25.100 Recording the resolution.
- 14.25.110 Administration.
- 14.25.120 Prohibited conduct.

14.25.010 Purpose.

A. The city of Philomath requires developers to construct and install water, sanitary sewer, storm sewer, and street improvements necessary to serve proposed developments. These improvements are constructed in accordance with city design and construction standards and later dedicated to the city as "public improvements." Often these street, water, sewer, and storm sewer improvements, particularly those constructed off-site, can and will benefit other property owners when they develop their property. Therefore, these improvements represent a benefit to those property owners.

B. The purpose of this chapter is to provide a mechanism where owners of property which benefits from the construction of public improvements by another property owner will share in the cost of those improvements through payment of a reimbursement charge at the time the benefited property is developed and/or the improvements are utilized.

C. Owners of property which would be subject to a reimbursement charge will be provided an opportunity to review and comment on pertinent information prior to the city establishing a reimbursement district pursuant to this chapter. The city will collect the reimbursement charges and, upon receipt, will forward the funds to the person who constructed the improvements.

D. The reimbursement charges established under this chapter are intended to become due and payable upon development of benefited property.

Such charges are fees for service because they contemplate a development's receipt of essential municipal services based upon the nature of that development. The timing and extent of any development are within the control and discretion of the developer. The reimbursement charges imposed under this chapter are not intended to be a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Article XI, Section 11b, of the Oregon Constitution or the legislation implementing that section.

E. The reimbursement charges established in this chapter are in addition to, and not in lieu of, other charges which may be required for developers. [Ord. 639 § 1, 1995.]

14.25.020 Definitions.

As used in this chapter:

A. "City public works director" or "director" means the person holding the position of city public works director or any officer or employee designated by that person to perform duties stated within this section.

B. "City" means the city of Philomath.

C. "Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent, employee or any representative thereof.

D. "Applicant" means a person, as defined in subsection (C) of this section, who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the city for reimbursement for the expense of the improvement. The "applicant" may be the city.

E. "Street improvement" means a street or street improvement conforming with standards adopted by the city through ordinance or policy, or required through approval of an application for a land use decision, and including, but not limited to, streets, storm drains, curbs, gutters, sidewalks, bike-paths, traffic control devices, street trees, lights and signs and public right-of-way.

F. "Water improvement" means a water or water line improvement conforming with standards adopted by the city through ordinance or policy, or required through approval of an application

for a land use decision, and including, but not limited to, extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line.

G. "Sewer improvement" means a sewer or sewer line improvement conforming with standards adopted by the city through ordinance or policy, or required through approval of an application for a land use decision, and including, but not limited to, extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

H. "Reimbursement district" means the area which is determined by the city council to derive a benefit from the construction of street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.

I. "Reimbursement fee" means the fee required to be paid by a resolution of the city council and the reimbursement agreement. The city council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district. [Ord. 639 § 2, 1995.]

14.25.030 Application for a reimbursement district.

A. Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the city planning official, request that the city establish a reimbursement district. The street, water and sewer improvements must include improvements in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval or must be available to provide service to property other than property owned by the applicant. Examples include, but shall not be limited to, full street improvements instead of half street improvements, off-site sidewalks, connection of street sections for continuity, extension of

water lines and extension of sewer lines. The city may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this section.

B. The application shall include the following:

1. A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.

2. A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

3. Postconstruction: the actual cost of the improvements as evidenced by receipts, invoices or other similar documents, not to exceed the prevailing market rates for a similar project as determined by the city public works director. Preconstruction: the estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the city planning official.

4. Postconstruction: the date the city accepted the public improvements. Preconstruction: the estimated date of completion of the public improvements.

C. Application for formation of a reimbursement district may be made at any time but shall be made no later than three months after completion and acceptance of the street, water or sewer improvements. However, the city planning official may waive this requirement upon the showing by the applicant of good cause for the delay, that the delay was not created by the applicant, and that the delay was unavoidable due to unanticipated or unforeseen circumstances [Ord. 639 § 3, 1995.]

14.25.040 City planning official's report.

The city planning official shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The planning official may request the submittal of other relevant information from the applicant in order to assist in the evaluation. The planning official shall prepare a written report for

the city council, considering and making recommendations concerning the following factors:

A. Whether the applicant will finance or has financed some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant;

B. The area to be included in the reimbursement district;

C. The actual or estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

D. A methodology for spreading the cost among the parcels within the reimbursement district and, where appropriate, defining a "unit" for applying the reimbursement fee to property which may, with city approval, be partitioned, altered, modified, or subdivided at some future date. The methodology should include consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the city planning official. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related contribution in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

E. The reimbursement fee shall be adjusted annually beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the city. The annual fee adjustment shall be fixed and determined by the council and computed against the reimbursement fee as simple interest and will not compound. The city planning official may take into account the documented cost of any financing, including prepayment points, prepayment penalties, loan fees, and the actual percentage rate of interest being paid by the applicant, when recommending the annual fee adjustment to the city council;

F. The city may charge a fee for administration of the agreement. The administration fee shall be fixed by the council and will be included in the res-

olution approving and forming the reimbursement district. The administration fee is due and payable to the city at the time the agreement in PMC 14.25.080(B) is signed.

G. The period of time that the right to reimbursement exists if the period is less than 15 years. [Ord. 639 § 4, 1995.]

14.25.050 Amount to be reimbursed.

A. The cost to be reimbursed to the applicant shall be limited to the cost of construction, including the acquisition and condemnation costs of acquiring additional right-of-way, the cost of permits, engineering and legal expenses, and the annual fee adjustment fixed and determined by the council.

B. A reimbursement fee shall be computed by the city for all properties which have the opportunity to utilize the improvements, including the property of the applicant, for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant. [Ord. 639 § 5, 1995.]

14.25.060 Public hearing.

A. Within a reasonable time after the city planning official has completed the report required in PMC 14.25.040, the city council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The city council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

B. If a reimbursement district is formed prior to construction of the improvement(s), a second public hearing shall be held after the improvement has been accepted by the city. At that time, the city council may modify the resolution to reflect the actual cost of the improvement(s). [Ord. 639 § 6, 1995.]

14.25.070 Notice of public hearing.

Not less than 10 nor more than 30 days prior to any public hearing held pursuant to this chapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the city council's action to approve the same. [Ord. 639 § 7, 1995.]

14.25.080 City council action.

A. After the public hearing held pursuant to PMC 14.25.060, the city council shall approve, reject or modify the recommendations contained in the city planning official's report. The city council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the city planning official's report as approved or modified, and specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving city permits applicable to development of that parcel as provided for in PMC 14.25.100(C).

B. When the applicant is other than the city, the resolution shall instruct the city manager to enter into an agreement with the applicant pertaining to the reimbursement district improvements. If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the city. The agreement, at a minimum, shall contain the following provisions:

1. The public improvement(s) shall meet all applicable city standards or comply with specific requirements imposed by the planning official, planning commission, or city council.

2. The total amount of potential reimbursement to the applicant.

3. The annual fee adjustment set by the city council.

4. The applicant shall guarantee the public improvement(s) for a period of 12 months after the date of installation.

5. The applicant shall defend, indemnify and hold harmless the city from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the city's establishment of the district.

6. The applicant shall acknowledge that the city is not obligated to collect the reimbursement fee from affected property owners.

7. Other provisions as the city council determines necessary and proper to carry out the provisions of this chapter.

C. If a reimbursement district is established by the city council, the date of the formation of the district shall be the date that the city council adopts the resolution forming the district [Ord. 639 § 8, 1995.]

14.25.090 Notice of adoption of resolution.

The city shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount of the fee. [Ord. 639 § 9, 1995.]

14.25.100 Recording the resolution.

A. The city recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of county records so as to provide notice to potential purchasers of property within the district. The recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

B. Contesting the Reimbursement District. No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following adoption of a resolution establishing a reimbursement district.

C. Obligation to Pay Reimbursement Fee. The applicant for a permit related to property within any reimbursement district shall pay to the city, in addition to any other applicable fees and charges, the reimbursement fee established by the council, together with the annual fee adjustment, if within the time specified in the resolution establishing the district the person applies for and receives approval from the city for any of the following activities:

1. A building permit for a new building;
 2. Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed 25 percent of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the county department of assessment and taxation for the building's real market value. This subsection shall not apply to repairs made necessary due to accidental damage to the structure beyond the owner's control or damage or destruction by fire or other natural disaster;
 3. Any alteration, modification or change in the use of real property which increases the number of parking spaces required under the Philomath zoning ordinance in effect at the time of permit application;
 4. Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;
 5. Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement; or
 6. Connection to or use of a street improvement, if the reimbursement district is based on the street improvement.
- D. The city's determination of who shall pay the reimbursement fee is final. Neither the city nor any officer or employee of the city shall be liable for payment of any reimbursement fee, annual fee adjustment, or portion thereof as a result of this determination.
- E. A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this chapter is intended to modify or limit the authority of the city to provide or require access management.
- F. No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in subsection (C) of this section unless the reimbursement fee, together with the annual fee adjustment, has been paid in full. Where approval is given as specified in subsection (C) of this section, but no permit is requested or

issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

G. The date when the right of reimbursement ends shall not extend beyond 15 years from the district formation date. [Ord. 639 § 10, 1995.]

14.25.110 Administration.

A. The right of reimbursement is assignable and transferable after written notice is delivered to the city advising the city to whom future payments are to be made.

B. The city shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the city shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee.

C. The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the city. [Ord. 639 § 11, 1995.]

14.25.120 Prohibited conduct.

A. No person may cause, maintain or use a connection to a utility improvement for which a reimbursement district has been established and for which a reimbursement charge is due and payable, unless such charge has first been paid or financed with installment payments.

B. Violation of this section is a civil infraction, punishable by a fine not to exceed \$500.00. Each day that a prohibited connection or use exists constitutes a separate violation.

C. The remedies provided under this section are cumulative to any other remedies provided by law. [Ord. 639 § 12, 1995.]

